

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DUNKEL *et al.*

Appl. No.: 10/588,293

371 (c) Date: May 16, 2007

For: **2-Halofuryl/Thienyl-3-Carboxamides**

Confirmation No.: 7192

Art Unit: 1626

Examiner: RODRIGUEZ-GARCIA, Valerie

Atty. Docket: 2400.0660000/RWE/L-Z

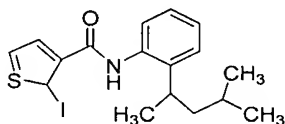
Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated December 2, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elects to prosecute the invention of Group I, represented by claims 1-2, 4 and 8-11. Applicants also hereby provisionally elect compound N-[2-(1,3-dimethylbutyl)phenyl]-2-iodothiophene-3-carboxamide as the species. These elections are made without prejudice to or disclaimer of the other claims or inventions disclosed.

The structure of compound N-[2-(1,3-dimethylbutyl)phenyl]-2-iodothiophene-3-carboxamide is:



Compound N-[2-(1,3-dimethylbutyl)phenyl]-2-iodothiophene-3-carboxamide can be found in the application as filed, *see* the application at page 73, Example 1. Claims 1-

2 and 4 read on compound N-[2-(1,3-dimethylbutyl)phenyl]-2-iodothiophene-3-carboxamide.

Compound N-[2-(1,3-dimethylbutyl)phenyl]-2-iodothiophene-3-carboxamide is a compound of formula (I), in which A is S; Hal is I; R is hydrogen; M is phenyl (C₆H₅); and Z is Z³ that is 1,3-dimethylbutyl.

This election is made with traverse.

The present patent application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies to the present application.

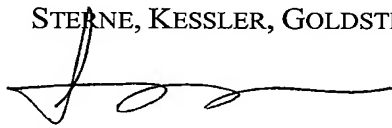
Claims of Group I (claims 1-2 and 4) are directed to compounds of formula (I), claim of Group II (claim 3) is directed to a process for preparing the compounds of formula (I), and claims of Group III (claims 5 and 6) are directed to a method of using the compounds of formula (I) for controlling unwanted microorganisms. Groups I-III therefore are related as products, processes for manufacturing such products, and a use of such products, respectively. Section 1.475 (b)(3) of Title 37 of the Code of Federal Regulations states that a national stage application containing claims to a product, process of manufacture, and a process of use of said product will be considered to have unity of invention. Examining these three groups together would therefore not place an undue burden on the Examiner. Accordingly, Applicants respectfully request that the Examiner reconsiders the Restriction Requirement, and examines the claims of Groups I-III together.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional

extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STEIN, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Lei Zhou
Attorney for Applicants
Registration No. 48,291

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1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600
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